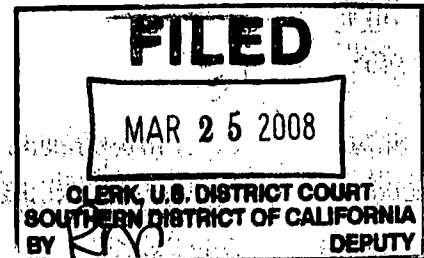


1 RALPH MARTINEZ
 2 CDC #V-64613
 3 P. O. Box 5002
 4 Calipatria, CA 92233

5 Plaintiff, in pro per

2254	1983
FILING FEE PAID	
Yes	No <input checked="" type="checkbox"/>
HFP MOTION FILED	
Yes	No <input checked="" type="checkbox"/>
COPIES SENT TO	
Court <input checked="" type="checkbox"/>	ProSe <input checked="" type="checkbox"/>



6 UNITED STATES DISTRICT COURT
 7 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

8 RALPH MARTINEZ, et. al.,

9 Plaintiff,

10 vs.

11 ARNOLD SCHWARZENEGGER,
 12 Governor, JAMES TILTON, Secretary of
 13 the Department of Corrections and
 14 Rehabilitation, LARRY E. SCRIBNER,
 15 Warden, Calipatria State Prison, J.
 16 BUILTEMAN, Associate Warden,
 17 Calipatria State Prison, T. BOREM,
 18 Correctional Sergeant, Calipatria State
 19 Prison

20 Defendants.

Case No.: '08 CV 0565 BEN CAB

CLASS ACTION

COMPLAINT UNDER THE
 RELIGIOUS LAND USE AND
 INSTITUTIONALIZED PERSONS ACT
 [42 U.S.C. § 2000cc Et. Seq.] AND THE
 CIVIL RIGHTS ACT [42 U.S.C. § 1983];
 POINTS AND AUTHORITIES.

21 This is a civil class action for declaratory and injunctive relief to redress continuing
 22 violations of the Religious Land Use and Institutionalized Persons Act (RLUIPA) codified in Title
 23 42 U.S.C. § 2000cc et. seq., and to redress the continuing deprivation of rights secured by the First
 24 Amendment to the United States Constitution and Title 42 U.S.C. § 1983. Jurisdiction is
 25 conferred on this Court by 28 U.S.C. § 1331 and § 1343 and 42 U.S.C. § 1983 and § 2000cc-2.

26 PARTIES

27 1. Plaintiff Ralph Martinez is a prisoner in the custody of the State of California
 28 Department of Corrections and Rehabilitation and incarcerated at Calipatria State Prison at 7018
 Blair Road, Calipatria, California. He is an enrolled member of the Soboba Band of Luseno.

CR

1 Indians, a federally recognized tribe of Native Americans. His mailing address is P.O. Box 5002,
2 Calipatria, California 92233.

3 2. Defendant Arnold Schwarzenegger is the Governor of the State of California. He
4 is the chief executive officer of the State and has the ultimate authority over the operations and
5 policies of the California Department of Corrections and Rehabilitation. Defendant's current
6 office is in Sacramento County, California, at State Capitol Building, 1st Floor, Sacramento,
7 California 95814. He is sued individually and in his official capacity.

8 3. Defendant James Tilton is the Secretary of the California Department of
9 Corrections and Rehabilitation. He was appointed by the Governor, Plaintiff Arnold
10 Schwarzenegger, and is the chief administrative officer of the California Department of
11 Corrections and Rehabilitation (hereinafter "CDCR") which maintains and administers, and has
12 under its control all correctional institutions and their prisoners in the State of California.
13 Defendant's current office is in Sacramento County, California, at State Capitol Building,
14 Sacramento, California 95814. His mailing address is P.O. Box 942883, Sacramento, California
15 94283-0001. He is sued individually and in his official capacity.

16 4. Defendant Larry E. Scribner is the Warden of Calipatria State Prison and is
17 responsible for the administration of the prison and the custody of prisoners incarcerated therein.
18 Defendant's current office is in Imperial County, California, at 7018 Blair Road, Calipatria,
19 California, 92233. He is sued individually and in his official capacity.

20 5. Defendant J. Bulteman is the Associate Warden of Calipatria State Prison and is
21 responsible for the administration of religious and spiritual services for prisoners incarcerated at
22 Calipatria State Prison. His current office is in Imperial County, California, at 7018 Blair Road,
23 Calipatria, California, 92233. He is sued individually and in his official capacity.

24 6. Defendant T. Borem is a Correctional Sergeant at Calipatria State Prison and is
25 assigned to Receiving and Release ("R&R"), with the responsibility for the administration of the
26 receipt and processing of all spiritual and religious materials for prisoners incarcerated at
27 Calipatria State Prison. His current office is in Imperial County, California, at 7018 Blair Road,
28 Calipatria, California, 92233. He is sued individually and in his official capacity.

22. Defendants' imposition of regulations denying personal access and possession of sacred tobacco has also resulted in the denial of all of Plaintiffs' prayers and offerings for lengthy and extended periods of time during prison lockdowns. Calipatria State Prison was on lockdown from August 2005 through June 2006, and all Sacred Sweat Lodge ceremonies were suspended. Plaintiffs have been denied all access to sacred tobacco necessary for prayer and offerings during lockdowns in which no Sacred Sweat Lodge ceremonies were permitted.

23. In addition to lengthy lockdown periods, prison staff frequently cancel the Sacred Sweat Lodge ceremonies for purely operational reasons, thus denying Plaintiffs access to sacred tobacco for prayer and offering for multiple weeks at a time. The Sacred Sweat Lodge was canceled due to shortages of prison staff for all Plaintiffs housed on Facility 'B' at Calipatria State Prison on; June 11th, June 18th, July 2nd, July 30th, August 20th, September 3rd, December 24th, and December 31st, 2006, as well as February 4th, September 9th, and December 9th, 2007.

24. Plaintiff Martinez asserts and alleges, based upon good faith belief, that Plaintiffs housed on other facilities at Calipatria State Prison have also had their Sacred Sweat Lodge ceremony canceled for operational reasons, in a similar manner as has occurred on Facility B.

25. Defendants' policy of restricting Plaintiffs' use of tobacco in prayer and offering to weekly ceremonies, and the continuing cancellation of such ceremonies, imposes a substantial deprivation of Plaintiffs' exercise of their spiritual beliefs, and denies Plaintiffs a central daily sacrament of their religious practice and spiritual growth.

26. Defendants' actions, and current prison regulations, are in violation of the Religious Land Use and Institutionalized Persons Act (RLUIPA). 42 U.S.C. § 2000cc et. seq. Current prison regulations create a substantial burden against Plaintiffs' free exercise of their religious beliefs, and the regulations imposed are not the least restrictive manner in which to control the use of tobacco and other herbs within the institution.

27. Defendants' actions, and current prison regulations, are in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs are being denied the free exercise of their religious beliefs, and the equal protection of the law. No other group of spiritual

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27. Defendants' actions, and current prison regulations, are in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs are being denied the free exercise of their religious beliefs, and the equal protection of the law. No other group of spiritual

1 believers at Calipatria State Prison is being denied the ability to pray and offer thanksgiving daily
2 in accordance with their spiritual beliefs.

3 28. Plaintiffs have fully exhausted their administrative remedies for the issues raised
4 herein. Plaintiffs filed an Administrative Inmate Appeal which has been denied at the "Director's
5 Level" of review. Plaintiffs do not have any other administrative remedy to redress the ongoing
6 violation of Plaintiffs' rights to the free exercise of their religious and spiritual beliefs.

8 COUNT II

9 1-17. Plaintiffs allege and incorporate paragraphs 1 through 17 in Count I above, as if
10 fully set forth herein as Count II.

11 18. Plaintiffs hold the Sacred Sweat Lodge ceremony as a core rite of purification and
12 spiritual healing, guidance and spiritual growth. The Sacred Sweat Lodge ceremony is a
13 congregate gathering that must be held with other practitioners of the Native American Indian
14 spiritual beliefs.

15 19. Smoking of the Sacred Pipe using kinnikinnick and tobacco is a core part of the
16 Sacred Sweat Lodge ceremony for coming closer to the Great Spirit.

17 20. Certain spiritual materials and artifacts are necessary for Plaintiffs' conducting of
18 the Sacred Sweat Lodge ceremony, including but not limited to, a Sacred Pipe, eagle feathers,
19 buffalo skull, deer skull, antlers, drums, tobacco, sage, sweetgrass, kinnikinnick and other sacred
20 herbs.

21 21. Prison regulations imposed by Defendants require that all sacred tobacco necessary
22 for performing the Sacred Sweat Lodge ceremony be maintained and stored in a secured locker
23 located within the Central Control complex.

24 22. Prison regulations imposed by Defendants restrict all access to the sacred tobacco
25 for the Sweat Lodge ceremony to the prison Chaplain, or a Native American Spiritual Leader
26 (NASL). Plaintiffs are not allowed access to their sacred tobacco without the specific presence of
27 the Chaplain or NASL.

29. Plaintiffs have fully exhausted their administrative remedies for the issues raised herein. Plaintiffs filed an Administrative Inmate Appeal which has been denied at the “Director’s Level” of review. Plaintiffs do not have any other administrative remedy to redress the ongoing violation of Plaintiffs’ rights to the free exercise of their religious and spiritual beliefs.

GROUND III

1-22. Plaintiffs allege and incorporate paragraphs 1 through 17 in Count I and paragraphs 18 through 22 of Ground II, as if fully set forth herein in Count III.

23. Plaintiffs' religious practices hold that certain days are sacred, including, the Full Moon, New Moon, Summer and Winter Solstices (June and December), and Spring and Fall Equinoxes (March and September). Plaintiffs' spiritual beliefs hold that Plaintiffs must gather amongst practitioners of the Native American Spiritual beliefs to celebrate these sacred days.

24. Plaintiffs' spiritual practices hold that they must conduct a gathering together with the wider Native American Indian community for an annual celebration of the harvest, commonly referred to as the Pow-Wow. This communal ceremony is to be held in the outdoors in the presence of nature, not inside of enclosed buildings.

25. Prison policies enacted by Defendants establish an employee and/or volunteer position at Calipatria State Prison for a Native American Spiritual Leader (NASL), who is to be responsible for the coordination and conducting of Plaintiffs' religious practices, supplies and ceremonies.

21 26. Prison regulations imposed by Defendants require that all ceremonies for the Pow-
22 Wow, Solstices and Equinoxes must be requested in writing by the NASL, and that approval of
23 these services must require the signature of the Warden, Plaintiff Scribner.

24 27. Calipatria State Prison does not have a Native American Spiritual Leader, either as
25 an employee or as a non-official volunteer. Defendants have refused to appoint a NASL even in
26 light of the Defendants imposition of regulations requiring a NASL to conduct Plaintiffs' spiritual
27 ceremonies.

1 28. Defendants' refusal to appoint a NASL in compliance with prison regulations
2 continues to deny Plaintiffs the ability to conduct sacred ceremonies essential to their spiritual
3 beliefs, and creates a substantial deprivation of Plaintiffs' exercise of their spiritual practices.
4 Defendants' are effectively denying Plaintiffs the ability to celebrate the Pow-Wow, Solstices and
5 Equinoxes through the imposition of regulations that are impossible to satisfy without the
6 appointment of a NASL.

7 29. Defendants imposition of prison regulations requiring the functions of a NASL in
8 order for Plaintiffs to conduct sacred ceremonies, and then failing and/or refusing to appoint a
9 qualified individual to such NASL position is unduly denying Plaintiffs the free exercise of their
10 spiritual practices.

11 30. Defendants' prison regulations also prohibit the NASL and/or Chaplain from
12 coordinating the supply of food to be consumed at communal spiritual services, unduly requiring
13 Plaintiffs to break away from their spiritual commune with nature and to hold portions of their
14 sacred ceremonies inside of enclosed buildings.

15 31. Defendants' actions, and current prison regulations, are in violation of the
16 Religious Land Use and Institutionalized Persons Act (RLUIPA). 42 U.S.C. § 2000cc et. seq.
17 Current prison regulations create a substantial burden against Plaintiffs' free exercise of their
18 religious beliefs, and the regulations imposed are not the least restrictive manner in which to
19 permit Plaintiffs to conduct ceremonies sacred to their spiritual practices.

20 32. Defendants' actions, and current prison regulations, are in violation of the First and
21 Fourteenth Amendments to the United States Constitution. Plaintiffs are being denied the free
22 exercise of their religious beliefs, and the equal protection of the law. No other group of spiritual
23 believers at Calipatria State Prison is being denied the benefit of a spiritual leader and/or chaplain,
24 or is being denied the ability to conduct ceremonies core to their spiritual beliefs.

25 33. Plaintiffs have fully exhausted their administrative remedies for the issues raised
26 herein. Plaintiffs filed an Administrative Inmate Appeal which has been denied at the "Director's
27 Level" of review. Plaintiffs do not have any other administrative remedy to redress the ongoing
28 violation of Plaintiffs' rights to the free exercise of their religious and spiritual beliefs.

GROUND IV

1-27. Plaintiffs allege and incorporate paragraphs 1 through 17 in Count I, paragraphs 18 through 22 in Count II, and paragraphs 23 through 27 in Count III, as if fully set forth herein in Count IV.

28. Plaintiffs' spiritual beliefs are derived from tribal life and communal teachings. The spiritual practices of Plaintiffs are inseparable from their cultural and tribal bonds, as well as their reverence for the sacred manifestations of nature.

29. A central element of Plaintiffs' spiritual beliefs is a reverence for nature and the collection of sacred manifestations of nature from Mother Earth. Plaintiffs' religious practices hold special reverence for sacred items that are collected from nature and shared amongst practitioners by the Native American Indian tribal community.

30. Plaintiffs' beliefs hold that the sacred items, artifacts, and herbs necessary for prayer, offerings, and sacred ceremonies should be collected directly from nature and provided to each other through the tribal community.

31. Prison regulations imposed by Defendants unduly prohibit Plaintiffs from obtaining sacred materials from the Native American Indian tribal community, and restrict all purchases of sacred artifacts and herbs to a selected few commercial vendors.

32. Defendants are unduly denying Plaintiffs the ability to obtain donated sacred blessed spiritual materials from the Native American Indian tribal community in accordance with Plaintiffs' religious and spiritual practices.

33. Defendants' prison regulations are unduly refusing to allow Plaintiffs to receive "spiritual" packages from the Native American Indian community, even though all packages received by inmates are subject to search for contraband, whether received from a vendor or from the tribal community.

34. Defendants' refusal to allow the receipt of "spiritual" packages from the Native American Indian community is denying Plaintiffs an essential element of their spiritual practices,

1 in that manifestations of nature are sacred gifts that should be gathered with reverence and shared
2 amongst the spiritual practitioners.

3 35. Defendants' actions, and current prison regulations, are in violation of the
4 Religious Land Use and Institutionalized Persons Act (RLUIPA). 42 U.S.C. § 2000cc et. seq.
5 Current prison regulations create a substantial burden against Plaintiffs' free exercise of their
6 religious beliefs, and the regulations imposed are not the least restrictive manner in which to
7 permit Plaintiffs to obtain sacred materials central to their spiritual beliefs.

8 36. Defendants' actions, and current prison regulations, are in violation of the First and
9 Fourteenth Amendments to the United States Constitution. Plaintiffs are being denied the free
10 exercise of their religious beliefs.

11 37. Plaintiffs have fully exhausted their administrative remedies for the issues raised
12 herein. Plaintiffs filed an Administrative Inmate Appeal which has been denied at the "Director's
13 Level" of review. Plaintiffs do not have any other administrative remedy to redress the ongoing
14 violation of Plaintiffs' rights to the free exercise of their religious and spiritual beliefs.

15 16 **GROUND V**

17 1-33. Plaintiffs allege and incorporate paragraphs 1 through 17 in Count I, paragraphs 18
18 through 22 in Count II, paragraphs 23 through 27 in Count III, and paragraphs 28 through 33 in
19 Count IV, as if fully set forth herein in Count V.

20 34. Plaintiffs' spiritual beliefs hold that the personal making of artifacts and crafts is a
21 central practice of healing and spiritual growth. The use of beads, leather and other materials are
22 essential to the creation of sacred tribal, communal and spiritual items. The creation of the artifact
23 or craft, including the spirit and energy put into making the object, give it its own unique power
24 that represents the spiritual/religious symbolism to his totem(s), tribal colors, or tribal beliefs.

25 35. In addition to prison regulations restricting the receipt of all of Plaintiffs' spiritual
26 materials through vendors, Defendant J. Builteman and Defendant T. Borem have arbitrarily
27 imposed more restrictive limitations on the total monetary value of each Plaintiffs' spiritual
28 packages.

1 36. Defendants Builtman and Borem have set a maximum value of two hundred
2 dollars (\$200.00) for Plaintiffs' spiritual packages, which may only be received no greater than
3 once per quarter. This limitation on the total value of spiritual items imposes a significant burden
4 upon the exercise of Plaintiffs' religious beliefs, and fails to consider the relatively high cost of
5 purchasing very use-specific religious materials.

6 37. Defendants Builtman and Borem have also set arbitrary restrictions on the specific
7 colors of materials that may be obtained through Plaintiffs' religious packages. For example,
8 Defendants are refusing to allow the Plaintiffs to purchase red and blue beads and other materials
9 with these colors.

10 38. The monetary and color-based restrictions on Plaintiffs' receipt of spiritual packages
11 impose a significant burden upon the exercise of Plaintiffs' religious beliefs. Plaintiffs are being
12 denied the ability to purchase materials because of the disproportionate cost of such items from
13 prison-designated vendors, as well as denied access to sacred materials that have colors bearing
14 tribal and spiritual significance.

15 39. The limitations imposed by Defendants Builtman and Borem, and current prison
16 regulations, are in violation of the Religious Land Use and Institutionalized Persons Act
17 (RLUIPA). 42 U.S.C. § 2000cc et. seq. Current prison regulations create a substantial burden
18 against Plaintiffs' free exercise of their religious beliefs, and the regulations imposed are not the
19 least restrictive manner in which to permit Plaintiffs to obtain sacred materials central to their
20 spiritual beliefs.

21 40. Defendants' actions, and current prison regulations, are in violation of the First and
22 Fourteenth Amendments to the United States Constitution. Plaintiffs are being denied the free
23 exercise of their religious beliefs.

24 41. Plaintiffs have fully exhausted their administrative remedies for the issues raised
25 herein. Plaintiffs filed an Administrative Inmate Appeal which has been denied at the "Director's
26 Level" of review. Plaintiffs do not have any other administrative remedy to redress the ongoing
27 violation of Plaintiffs' rights to the free exercise of their religious and spiritual beliefs.
28

PRAYER

WHEREFORE, for all the above and foregoing Counts, Plaintiffs pray:

- A. That this Court declare that any further imposition of the statutes, codes, prison regulations and attendant restrictions complained of are violative of Plaintiffs' rights under the Religious Land Use and Institutionalized Persons Act, and the First and Fourteenth Amendments to the United States Constitution;
- B. That this Court issue a Preliminary and Permanent Injunction, enjoining Defendants, their agents, employs and successors from further imposing the statutes, codes, prison regulations and attendant restrictions complained of herein;
- C. That Plaintiffs be awarded costs and attorney's fees for this action;
- D. For such other and further relief as this Court deems just and necessary.

Respectfully submitted this 20th day of MARCH, 2008, at Calipatria State Prison, Imperial County, California.


RALPH MARTINEZ, Plaintiff

POINTS AND AUTHORITIES

I. Religious Land Use and Institutionalized Persons Act:

The Religious Land Use and Institutionalized Persons Act ("RLUIPA") is codified in Title 42 of the United States Code, Section 2000cc et seq. Specifically, RLUIPA sets forth that:

"No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person – (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000cc-1(a).

The provisions of the act are applicable to any case in which "the substantial burden is imposed in a program or activity that receives Federal financial assistance, or . . . the substantial burden affects, or removal of that substantial burden would affect, commerce with . . . Indian Tribes." 42 U.S.C. § 2000cc-1(b)(1) and (2). An institutionalized person may "assert a violation of this chapter as a claim or defense in a judicial proceeding and obtain appropriate relief against a government." 42 U.S.C. § 2000cc-2(a).

"To assert a claim under RLUIPA, plaintiffs must produce 'prima facie evidence to support a claim alleging a violation of the free exercise clause.' [citation] The government, however, 'shall bear the burden of persuasion on any element of the claim, except that plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.'" *Mayweathers v. Terhune*, 328 F.Supp.2d 1086, 1093 (E.D.Cal 2004) (quoting 42 U.S.C. §2000cc-2(b)).

Religious exercise under RLUIPA "includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief." 42 U.S.C. § 2000cc-5(7)(A). The courts must construe the exercise of religion and the provisions of RLUIPA "in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution." 42 U.S.C. § 2000cc-3(g).

"RLUIPA thus protects institutionalized persons who are unable to freely attend to their religious needs and are therefore dependent on the government's permission and accommodation

for exercise of their religion.” *Cutter v. Wilkinson*, 544 U.S. 709, 721, 125 S.Ct. 2113, 161 L.Ed.2d 1020 (2005).

II. The First and Fourteenth Amendments to the United States Constitution and the Civil Rights Act.

The government must “make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” U.S. Constitution, Amendment I. “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor deny to any person within its jurisdiction the equal protection of the laws.” U.S. Constitution, Amendment XIV.

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress.” 42 U.S.C. § 1983.

“[W]hen a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.” *Turner v. Safley*, 482 U.S. 78, 89, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987).

Respectfully submitted this 20th day of MARCH, 2008, at Calipatria State Prison, Imperial County, California.


RALPH MARTINEZ, Plaintiff

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the rules of court. This form, approved by the Judicial Conference of the United States in September 1984, is required for the use of the Clerk of Court for the purpose of preparing the docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Ralph Martinez

Schwarzenegger, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

Imperial

FILING FEE PAID
DEFENDANTS
Yes ☒ No ☒

FFP MOTION FILED
Yes ☒ No ☒

COPIES SENT TO COURT
Yes ☒ No ☒

PROG

FILED

MAR 25 2008

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

(c) COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Ralph Martinez
PO Box 5002
Calipatria, CA 92233
V-64613

ATTORNEYS (IF KNOWN)

'08 CV 0565 BEN CAB

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	PERSONAL PROPERTY	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(a))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 791 Empl. Ret. Inc.	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> Security Act		<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input checked="" type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property					

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 3/25/2008

SIGNATURE OF ATTORNEY OF RECORD

R. Muller

CR